

IN THE CRIMINAL COURT FOR KNOX COUNTY, TENNESSEE
DIVISION I

STATE OF TENNESSEE

v.

LEMARICUS DEVALL DAVIDSON

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)
)
) NO. 86216 B
) JUDGE KURTZ
) By Designation
)

FILED
BY JOY R. MCCROSKEY
2012 DEC -6 PM 2:39
KNOX COUNTY ORIGINAL COURT
KNOXVILLE, TN
W

DEFENDANT DAVIDSON'S SUPPLEMENTAL MEMORANDUM IN SUPPORT
OF HIS SECOND AMENDED MOTION FOR NEW TRIAL

Comes the defendant, Lemaricus Davidson, by and through undersigned counsel, and respectfully submits this Supplemental Memorandum In Support Of His Second Amended Motion for New Trial [Davidson-DM-92].

On November 7, 2012, this court entered an Order scheduling a hearing on Mr. Davidson's Motion for New Trial for December 13, 2012, with additional briefing due on or before December 6, 2012. Mr. Davidson is complying with the Court's order by submitting issues not previously raised contemporaneously herewith; however, the Court's order also requests statements of fact and arguments of law on the now remanded issue of whether this Court, as second successor judge, may act as 13th juror.

Undersigned counsel previously briefed Mr. Davidson's arguments on the 13th juror issue, including outlining the testimony of witnesses requiring credibility determinations at length in Mr. Davidson's original Second Amended Motion for New Trial [Davidson-DM-92]. Mr. Davidson continues to rely on those previously stated arguments and will not rehash them here. (A copy of Mr. Davidson's Second Amended Motion for New Trial [Davidson-DM-92] is attached hereto for the Court's convenience and consideration.)

Thus far the Motions for New Trial filed by Mr. Davidson and his co-defendants alleging structural error or 13th juror defects have been addressed by the Court as a group. It is important however, that this Court, in determining whether it can act as 13th juror, treat the still pending cases of Mr. Davidson and his codefendants George Thomas and Letalvis Cobbins independently. Each case requires an individualized assessment of the 13th juror analysis based on the testimony and evidence at each defendant's trial.

Mr. Davidson would remind the Court that at trial his theory of defense provided an alternative explanation for the presence of forensic evidence linking him to the victim, and argued that the DNA evidence at issue could have been found as it was due to non-criminal conduct by Mr. Davidson. Accordingly, where, as here, Mr. Davidson presented a legitimate explanation for the

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing pleading was forwarded, via e-mail transmission, by hand delivery and/or by placing the same in the United States mail, with proper postage affixed thereon, to:

Randall E. Nichols,
District Attorney General
Leland Price,
Assistant District Attorney General
Ta Kisha Fitzgerald,
Assistant District Attorney General
City County Building
400 Main Street, Suite 168
Knoxville, Tennessee 37902

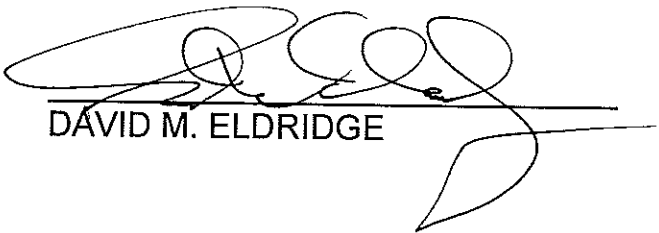
Kimberly A. Parton, Esq.
P.O. Box 116
Knoxville, Tennessee 37901

Russell T. Greene, Esq.
800 S. Gay Street, Suite 1920
Knoxville, Tennessee 37902

W. Thomas Dillard, Esq.
Stephen Ross Johnson, Esq.
Ritchie, Dillard, Davies & Johnson, P.C.
606 W. Main Street, Suite 300
Knoxville, Tennessee 37902

Theodore H. Lavit, Esq.
One Court Square
P.O. Box 676
Lebanon, Kentucky 40033

This 6th day of December, 2012.


DAVID M. ELDRIDGE